

**Assessment of Decentralisation and Local
Governance in BiH:
Strategic Orientations for SDC Country Office**

Synthesis report

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Disclaimer

Views expressed in this report are those of the independent experts and do not necessarily represent the position of the mandating agency

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List of Abbreviations

ADA	Austrian Development Agency
AMT	Association of Towns and Municipalities
BiH	Bosnia and Herzegovina
CAF	Common Assessment Framework
CCI	Centers for Civic Initiatives
CoM	Council of Ministers
DFID	UK Department for International Development
DLG	Decentralization and Local Governance
DLGN	Decentralisation and Local Governance Network
DPA	Dayton Peace Agreement
EC	European Commission
EKN	Embassy of the Kingdom of Netherlands
EU	European Union
FBiH	Federation of Bosnia and Herzegovina
GAP	Governance Accountability Project
GOV-WADE	Good Governance Project in Municipal Water and Environmental Development
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
HJPC	High Judicial and Prosecutorial Council
HQ	Headquarters
HRM	Human resource management
IBHI	Independent Bureau for Humanitarian Issues
IDS	Institute of Development Studies
IMC	Inter-municipal cooperation
ILDLP	Integrated Local Development Project
IPA	Instrument for Pre-Accession Assistance
IT	Information technology
ITA	Indirect Tax Authority
LED	Local economic development
LSG	Local self-government
MDP	Municipal Development Project
MZ	<i>Mjestna Zajednica</i> (village council)
M&E	Monitoring and Evaluation
NGO	Non-Governmental Organization
NRM	Natural resource management
OHR	Office of the High Representative

OSCE	Organization of Security and Cooperation in Europe
OSF	Open Society Foundation
PAR	Public Administration Reform
PFM	Public finance management
PPP	Public-private partnership
RS	Republika Srpska
SAA	Stabilization and Association Agreement
SDC	Swiss Agency for Development and Cooperation
Seco	Swiss secretariat for economic affairs
SIDA	Swedish International Development Agency
SIF	Social Inclusion Fund
SNV	Netherlands Development Organization
SWOT	Strengths, weaknesses, opportunities and threads analysis
UK	United Kingdom
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
WES	Water, environment and sanitation
VAT	Value added tax

Executive Summary

Despite the complexity of the local governance system in BiH and the existing entity and Cantonal differences, basic framework preconditions for advancing decentralisation and local governance (DLG) in BiH exist. The current system still leaves room for local self-governments' (LSG) potential to comply with current legislation and to use the advantages of decentralisation for advancing their performance, as well as for further legal and regulatory improvements (especially in the area of functional and fiscal decentralisation).

Emphasis on security in international assistance to BiH is being gradually replaced with the emphasis on performance of public sector in the context of the EU integration agenda and the on-going public administration reform.

The domination of ethnically based political system, the deficit of professional municipal management combined with poor organisation of civil society are the underlying reasons of existing democratic deficit and poor performance of public sector at the local level.

This assessment calls for a need in future SDC support in BiH to concentrate on all 3Dimensions of DLG process – “Democratisation, Decentralisation and Delivery of services” - by paying equal attention to both demand and supply side of governance equation, as well as to vertical integration between the field interventions and upper level decision making\ policy dialogue.

In the local level, on the supply side the focus can be made on the improvement of local governments' performance in terms of effectiveness and efficiency (and, thus, levelling cross-Entity differences), while on the demand side there is a need to generate alternative spaces for political and social participation within the associational sector. Both would serve the goals of shifting from ethnic rhetoric to socioeconomic issues and LSG performance in targeted municipalities and empowering local actors as driving forces of change.

Programmatic and demand-driven approach, focus on concrete local governance processes with effect demonstrated through a selected sector, well targeted choice of municipalities, strategic partnership and coordination with other actors are among key recommended principles for the new strategy.

1 Introduction

1.1 Assessment Focus

This report is the result of the rapid Decentralization and Local Governance (DLG) assessment in Bosnia and Herzegovina (BiH) commissioned by the Swiss Development Cooperation (SDC) in June 2011, in order to inform and guide conceptualization of the new strategic orientations for SDC's DLG portfolio in the country.

Good local governance is a theme that has been gaining attention of the international community in BiH lately, not only due to increasing importance of the European Union (EU) integration agenda, but also as a result of general disappointment of the impact of international community's investments into the state building project in BiH.

The SDC's Decentralisation and Local Governance Network (DLGN) also seeks to capitalise its recent experiences in the domain of local governance analysis.¹ This assessment is expected to contribute to consolidation of internal knowledge and practices related to DLG support in SDC partner countries, as well as towards advancing SDC quality standards to designing assistance strategies of higher impact.

1.2 Methodology

The **main idea of the assessment** is to feed decisions on future strategic orientations for SDC in BiH in the DLG domain (see ToR in *Annex 1*). The assessment has the potential to serve several purposes including:

- Identification of problems and gaps in advancing DLG in BiH (*diagnostic*),
- Informing SDC's strategies, operations and aid allocation in the DLG domain in BiH, as well as due diligence and effective risk management (*planning*),
- Identifying potential partners and issues for dialogue (*partnership and dialogue*).

The assessment combines **indicator-based benchmarking and political economy informed approaches**. Applying a political economy lens in DLG analysis is critical for underpinning existing reform challenges. The use of an indicative assessment matrix helps to keep a practical focus, although governance indicators are limited in various ways and are only proxies for dimensions of governance one would like to measure.

The assessment was conducted by **a team of two external consultants** (one international and one local). **Consultation with main DLG reform stakeholders** in BiH and wider national expert community was ensured during a two-week field mission (see *Annex 2* for the field mission program and *Annex 3* for the list of resource persons).

The assessment lasted from mid May through mid July, 2011 and was organised in **several phases**:

- 1) Assessment planning workshop at SDC HQ in Bern on May 23-24 where assessment methods and tools, including ideas for the indicative matrix, were identified and discussed;
- 2) Elaborating the approach, methodology and conducting preliminary desk study (see list of reviewed documents and publications in *Annex 4*) by the consultants in the end of May-beginning of June;
- 3) Field mission in BiH in June 6-21, during which 29 semi-structured individual and group interviews were conducted (with more than 60 resource persons involved, including 32 women), two mini-workshops were organised (one with local experts in

¹ See *Local governance assessments: A Capitalisation of SDC Experience. Decentralisation and Local Governance Network. SDC/Intercooperation/ IDS. February 2011*

Sarajevo and one with representatives of several neighboring municipalities in Dobojo), as well as a meeting with main DLG stakeholders for verification of preliminary assessment findings;

Given the experimental nature of this assessment it is conducted with distant analytical support from SDC HQ and its backstopping partner, the Institute of Development Studies (IDS) at Sussex University, UK.

The team used a set of ***selected methodological tools*** tested during similar exercises elsewhere:²

- SWOT analysis as an interim tool for listing main strength and weaknesses of the DLG reform, as well as opportunities and threats from the perspective of domestic experts and local government practitioners. The analysis was instrumental in refining the indicative list of exploratory questions related to key aspects of the LDG reform in BiH.
- Stakeholder mapping and analysis was conducted to identify actor-specific semantics of the LGD reform process in BiH by specifying relevant actors and revealing their current interests (both driving and blocking factors) and power sources. Different actors are differently affected by the reform and adopt different positions. Depending on their political incentives, roles and expectations, level of influence and available resources, opportunities and threats they adopt supportive attitude (becoming “drivers”) or suppressive attitude (becoming “blockers”). Understanding and engaging positions of different actors, as well as relations among them, is of paramount importance for steering the DLG reform. The stakeholder analysis resulted into a list of main DLG reform stakeholders with brief description of powers³ and interests⁴ attached to each stakeholder (see *Annex 5*)
- Indicative matrix of DLG capacity areas represents an attempt to reach judgement on the trajectory of DLG development in BiH by focusing on the key principles of good governance – effectiveness, efficiency, accountability, participation, transparency, rule of law and equity. The main DLG areas assessed against these principles were: local democracy and local self-governance organization, planning and plans implementation, service delivery, public resources management (see the assessment matrix in *Annex 6*).

The situation in relation to the DLG good governance assessment areas and principles was analysed from both *demand and supply side* of good governance equation. Particular attention was paid to power dimensions across different levels/places, spaces and forms.⁵

Preliminary discussions related to the indicators and formulating guiding questions were held in the framework of the analytical workshop in Bern on May 23-24, 2011 prepared and moderated by the DLGN with the participation of SDC HQ and IDS specialists.

² Similar exercises on assessing LGD context but of different purpose and scope were conducted by SDC in Tajikistan, Bangladesh, Nicaragua, B&H, etc, and capitalized by the DLGN

³ Power understood widely in both negative and positive sense and in all its dimensions (power in, power within, power with and power over) and classified as position power, financial power, expert power, negotiation power, networking power, information power.

⁴ Interests that lead to both driving and blocking attitude

⁵ Main levels (or places) include global, national and local; spaces can be closed, invited or created/ claimed; and forms are classified as invisible, hidden and visible (for the illustration of concept see www.powercube.net developed by brought to you by the Participation, Power and Social Change team at the Institute of Development Studies, University of Sussex).

The principle of inclusion was paid a special attention during the mission. It manifested itself in emphasising inclusion aspects throughout the enquiry, a balanced selection of men and women informants (in order to ensure gender-balance views and perspectives), as well as the involvement of key DLG actors from different levels (from village self-organisations to ministries) and different sectors (public, private and civil society).

The idea to bring different foci of DLG with the elements of power analysis is innovative and associated with **methodological challenges** resulting from a need to combine the following broad traditional assessment focus areas:

- *Decentralization*, whereby indicators cut across issues reflecting the different kinds of decentralisation processes and the varying degrees of devolution, de-concentration and delegation related to those processes (including indicators related to political, administrative and fiscal decentralization, enabling environment for decentralisation - institutions, actors, laws and policies).
- *Local governance*, whereby the aim is to capture the principal dimensions and determinants of governance at the local level, such as the local political system (elections, human rights, rule of law, civil society, freedom of information), institutional issues (corruption, public administration, financial management, public procurement, etc); social and cross-cutting issues (the policy process, the budget process, revenue mobilization, service delivery, gender, environmental sustainability, etc.) and the business/trade environment.
- *Local democracy*, whereby the institutions of local government and organizations and activities of civil society are being assessed (including regular and genuine elections, the rights of majority, minority and opposition groups to influence policy-making processes, and respect for basic civil and political rights; mechanisms of direct/ participatory and representative democracy).
- *Local government and local government performance*, whereby outputs and outcomes achieved by local governments in service delivery, income and expenditure are assessed (performance of local governments in delivering goods and services to the public, including policy, institutional, financial and human resource constrains).

1.3 Setting the General Context

BiH is a country that has been undergoing multiple transition - from the devastating war in the early nineties (after the demise of ex-Yugoslavia) to a stable state, from the communist rule to a liberal democracy and a pluralistic political system, from the centrally controlled economy to a free market economy.

This transition and the ongoing reforms are constrained by weak state level capacities. The Dayton Peace Agreement (DPA) of 1995 has secured power sharing compromise among political forces and three main ethnic groups (Bosniaks, Serbs and Croats) by introducing a complex institutional structure with the two entities and one district – the Federation of Bosnia and Herzegovina (FBiH) and the Republika Srpska (RS) and the District of Brcko. The DPA proved to be effective for stopping a bloody war but not for building a strong state. Despite certain achievements in constructing a unified state, the national government is still weak while main powers are concentrated at the first sub-national level (2 Entities and the District). Political leaders in both Entities do not seem to share vision for the country's political system which prevents consensus with regards to necessary constitutional changes.

Ethnicity and religion are the most important signifiers of people's identity in the post-war BiH, and the current governance system builds heavily on this legacy of conflict. Ethnicity is the one overriding factor that permeates and distorts the governance system at all levels. The ethnic divisions in the country have serious adverse consequences

for democratization process (see details in chapter 2.2.) as the ethnonationalism remains a main political paradigm in BiH.⁶

The war substantively changed the BiH's ethnic demography. As all predominant ethnic groups failed establish dominance at the state level they stream their efforts in dominating at the Entity/Cantonal levels. As a result the two Entities and the District of Brcko have differently organised governance systems. FBiH is further sub-divided into ten cantons (that were largely drawn along ethnic lines) and has more complex and decentralised local governance system, while in RS where there is no interim tier of government and the relation between the Entity and municipalities are more direct. The District of Brcko functions as an independent and decentralized administrative unit in a small territory.⁷

Both Entities have 141 municipalities (79 in FBiH and 62 in RS), more than 40 of which are newly created by DPA in order to address the ethnic composition changes of respective territories.⁸ As a result there is an array of municipalities in BiH with fragmented territory, infrastructure, documentation and history.

Tension between international powers and local ownership is a chronicle Bosnian “disease” with the EU integration being perceived as potential “cure”. In the framework of DPA, the international community still plays an important role in country's affairs, and the withdrawal of international powers is implemented at a slower pace when initially planned. The frameworks and perspectives for the EU integration that are expected to be instrumental in phasing out mandates of international institutions from BiH are not yet clearly defined. There is an emerging expectation for decisive steps from the EU that are important for enhancing its credibility and membership offer for BiH.⁹

The focus shift from security to performance in BiH brings LSGs on the scene. In the context of the ongoing transition from ensuring security to advancing development and performance of governance institutions increasing attention is being paid to the role of local self-governments (LSG) and the decentralization reform.¹⁰ Key relevant policies and strategies are already in place, including the Public Administration Reform (PAR) and LSG development strategies (for BiH and RS), but much is still to be done for setting them into practice and for harmonizing them with other policies and legislations.

1.4 Reflections on SDC Previous Support to Governance in BiH

SDC has a history of involvement in the local governance sector in BiH. SDC has been providing support to BiH through bilateral cooperation projects and international programs since 1996. Since 2004-2008 SDC explicitly focuses on governance issues.

The Mid-term Country Program 2009-2012 stresses the *Rule of Law and Democracy* domain where the DLG is defined as a sub-domain with the goal to improve capacity of governance actors for meeting the challenges of democratic decentralization. Review of the core SDC projects related to local governance and service improvement is given in the table below.

Table 1. Principal recent SDC interventions in DLG sub-domain

Project	Project duration	Main topics and approaches
Municipal Development Project	2001-June	Integrated participatory mid-term development

⁶ This phenomena is studied in details in “*Ethnopolitics in BiH: State and society in crises*” by V.Dzihic, Baden-Baden, Nomos, 2009

⁷ Brcko District does not consist of smaller administrative units (municipalities) but it has higher level of jurisdictions than the authorities of other cities and municipalities in BiH.

⁸ In many cases territories with ethnic minorities along the inter-entity border line became new municipalities.

⁹ R.Domm “*Next Steps for BiH: Key elements to a revised EU strategy*” in Southern European and Black Sea Studies, Vol 11, No 1, March 2011, p. 52-67

¹⁰ The issue is particularly stressed in the WB report “*From Stability to Performance: Local Governance and Service Delivery in BiH*”, WB: Sarajevo, 2009

(MDP) implemented by local MDP NGO resulting from the project	2011	planning and spatial planning; local economic development (LED) focus; community participation. Capacity development of LSGs, utilization of EU funds, projects implementation, inter-municipal cooperation; policy advocacy.
Governance in Municipal Water and Environmental Development (GOW-WADE) implemented by GOWADE NGO resulting from the project	2006 – Dec 2012	Planning and improved service provision in WES sector. Capacity development of local administrations and service providers; engagement of service users, regulatory support.
Integrated Local Development Project (ILDP) implemented by UNDP	2008 – Jul 2011	Area-based development (ABD) approach; integrated participatory mid-term development planning and projects implementation; citizens' participation. Capacity development of LSGs, technical assistance in elaboration of the national mid-term planning methodology for municipalities; policy advocacy)
Contribution to Constitutional Reform implemented by Human Rights Centre, University of Sarajevo and Institute for Political Sciences Zürich/ Zentrum für Demokratie Aarau	2008 – Nov 2010	Facilitating networking and dialogue between actors dealing with the constitutional reform issues with special focus on power-sharing and consensus making (including the issue of DLG). Strengthening capacities of BiH Parliament members.

Among key traditional sectors of intervention of SDC in BiH are water, environment and sanitation (WES), primary health care, employment (with special focus on youth), and public infrastructure (mainly through SECO interventions).

SDC is perceived as reliable and open partner. The key strengths related to SDC approach to DLG process in BiH spotted by different reviews and evaluations¹¹ and referred to by the interviewed persons are the following:

- Long-term commitment that allows deepening development processes and to respect to participation and local ownership;
- Demand driven provision of development assistance, working with local stakeholders and avoidance of establishing parallel structures;
- Attempts to secure links between local level interventions and implementation of existing policies and/ or policy-making;
- Rather wide geographic coverage in both Entities and special attention to inter-Entity border areas;
- Withdrawal from imposition of approaches and adequate attention to exchange, tacit and peer type of learning, cross-municipal fertilization;
- Assistance in generating domestic Bosnian know-how in effective services management (chiefly in the WES and primary health care sectors);
- Balanced attention to different governance actors (including NGOs and wider civil society), as well as to promoting social inclusion principles;
- Ability to draw on different instruments available under SDC and Seco assistance umbrellas;

¹¹ Including the Review of SDC's Governance Sector activities in Bosnia and Herzegovina by Erika Schläppi, Mersad Beglerbegovic (2008) and project specific reviews and evaluations.

- Partnership with national organizations and institutions, and operational alliances with other development agencies (including multilaterals).

2 Assessment Findings

2.1 Policy Environment and Key Players

2.1.1 Main Local Governance Reform Frameworks

The BiH complex institutional framework has a significant influence on the decentralization policies and processes. Main responsibilities for regulating LSG affairs rest at the Entity level in RS (with the key stakeholder being the Ministry of Governance and Local Self-Governance) and at the Cantonal level in FBiH (with the key players being the Entity Ministry of Justice and the Cantonal Ministries of Justice and Governance). Despite the fact that municipalities face similar developmental and governance challenges the Entity differences between the local governance set up require separate legal and regulatory provisions.

The existing national PAR Strategy serves an important frame for reforming the governance system in BiH, although it is applicable to a different degree to LSGs in the two Entities (local officials in RS are exclusively municipal employees and not public servants while in FBiH they are the mixture of both).

Existing DLG strategies and laws are in line with the EU policies, and setting them into practice is a pending task. Essential DLG frameworks existing to the date in BiH (to a large extent with the support of international community) include:

- *BiH Strategy for Development of Local Self-Governance* was elaborated by the key domestic practitioners (NGO think-tanks, municipal experts and mayors) in 2006, with support of SDC and Open Society Foundation (OSF). It was approved by the two entity Associations of Towns and Municipalities (ATM), respected by main donors but was never officially endorsed by the state government or the Parliament.

RS Strategy for Development of Local Self-Governments was elaborated with the support of local experts by the RS Ministry of Government and Local Self-Governments and approved by the RS Government and the Assembly in 2010.

Both Strategies aim at accomplishing functional and fiscal decentralisation, improved human resources management, increased citizen participation, improved service delivery, and improved inter-governmental and cross-municipal relations.

- The *FBiH Law on Principles of Local Self-Governments* of 2006 and the *RS Law on Local Self-Governments* of 2005 that are generally in line with the European Charter on LSG. The RS Ministry of Governance and Local Self-Governance intends to amend the Law by the end of 2011.¹² DLG related policy discussions at the FBiH Entity level are less advanced, also due to existing confusions between the Entity and Cantonal responsibilities for regulating LSG affairs¹³ and delays in the implementation of the general Federal election results of October 2010.

¹² The main intention is being to better distinguish between the status of municipalities, encourage inter-municipal cooperation and better define the role of village councils (*Mjesna Zajednica - MZ*).

¹³ The current *FBiH Law on Principles of Local Self-Governance* goes far beyond regulating local self-governance principles which leaves little space for regulatory role of the Cantons. Most Cantons have simply duplicated the Federal law in their respective Laws on local self-governments.

2.1.2 EU Integration Implications

EU integration agenda is the key driving force of the DLG reform in BiH despite lacking EU pressure. Since the inclusion of BiH into the European Partnership process in 2006 and then signing of the Stabilization and Association Agreement (SAA) between BiH and EU in 2008, the country has stepped on the EU integration route. However, the EU-related reforms are advancing at a sluggish pace due to little consensus among Entity politicians on main integration issues. By the end of 2011 BiH could formerly candidate for EU membership. On the other hand, EU still lacks a clear vision and strategies towards BiH which explains a visible deficit of pressure/ conditionality on BiH from the EU side.

Key EU related structures in BiH (apart from EU Police Mission mandated to fight against organized crime and corruption and EUFOR military operation forces) include the EU Special Representative (that is also the High Representative of the international community in BiH with a mandate to oversee implementation of the DPA and the SSA process) and the EU Delegation. Besides, a special Division of European Integration was set up at the national level in order to support BiH actors in the EU integration process and the EU integration departments exist in most Ministries in RS.

Sub-national levels of government are assigned an important role in the EU accession, although central state is the main EU partner in the negotiation, policy making and regulation adjustment processes. The concept of EU social and economic cohesion has a number of local dimensions. It is the local governments that will localize/ carry out mandatory EU law based regulations and relevant reforms, which is the reason for local governments to participate and influence the EU related negotiations and engage into assessment of EU related regulations and reforms on municipalities in BiH. Besides, EU accession implies certain rights and obligations for LSGs which municipalities need to be aware of, in order to comply.

EU support is gradually made available to local governments although absorption capacity remains weak. The key EU vehicle for BiH progressive alignment with EU regulations and standards is the Instrument for Pre-Accession Assistance (IPA) for the year 2007-13 with total funding of 11,5 billion Euro. LSGs are eligible to apply under the two IPA components, namely “transition and institutional building” and “regional and cross-border cooperation”. Participation in the former is possible for large municipalities. The latter is gaining popularity among BiH municipalities bordering with other states, although the main applicants in the regional cross-border projects are predominantly partner municipalities of the neighboring countries, and the current funds absorption capacity does not exceed 30%. Currently, a number of international projects are working at improving municipal capacities to access the IPA funds.

2.1.3 Key Actors and Stakeholders

The DLG scene is crowded with various stakeholders of national, Entity, Cantonal (in FbiH) and municipal levels. Detailed results of stakeholder analysis are presented in Annex 7. The main players include:

At the national level

- BiH Presidency
- Council of Ministers
- Parliamentary Assembly of BiH, with two homes: Home of Representatives and Home of People, and relevant commissions.
- DEI
- DEP
- PARCO
- ITA
- Expert NGOs who deal with local governance issues / Think tanks
- Academia

- Media

At the FbiH level

- Parliament / Commission for LSG
- Government
- FBIH Ministry of Justice (with Institute of Public Admin.)
- FBIH Ministry of Finance
- FBIH sectoral ministries
- Agency for State Service
- ATM
- Cantonal Assembly
- Cantonal Government
- Cantonal Ministries of Justice and Governance
- Cantonal Ministries of Finance
- Cantonal sectoral ministries

At the RS level

- National Assembly / Committee for LSG
- Government
- Ministry of Governance and Local Self-Governance
- Ministry of Finance
- Sectoral ministries
- Agency for State Service
- ATM

At the municipal level

- Mayor and executive office
- Municipal Council/ Assembly
- Administration with its departments and service
- Public utilities
- Social service providers (health centers, schools, employment offices, center for social welfare)
- Political parties
- Local media
- Local businesses
- Local NGO's
- Local communities (*Mjestna Zajednica* - MZ)
- Organized & non organized citizens groups

The stakeholder analysis reveled both supportive and restraining forces in relation to DLG reform progress in BiH. All stakeholders exercise different level of influence and have different level of importance for DLG processs depending on issues in question. Their powers and interests are reflected upon, where relevant, in chapter 2.2 that contains description of the curren DLG situation in the country as assessed by the mission.

Extensive international support to DLG in BiH continues but coordination is very weak and success are patchy. There are less donors involved into supporting the DLG processes in BiH than some years ago but there are donors with larger investments assigned to the sector. The major actors include (detailed description oftheir objectives and initiaitves see in Annex 8):

Multilateral agencies: WB, EU, UNDP, OSCE

Bi-lateral agencies: SDC, SIDA, USAID, GIZ

International NGOs: OSF, SNV

Although exchange of information takes place, there is no formal coordination among the donors and there are instances of different international organisations promoting different governance standards and approaches. It is expected that coordination and standardisation role can be better played in the future by the ATMs.

2.2 Current Situation in Decentralisation and Local Governance

This section represents results of rapid analysis of DLG by key capacity areas assessed against good governance areas and principles as suggested by the indicative matrix in Annex 6.

2.2.1 Local Democracy

The LSGs functioning in BiH has wide Entities, Cantonal and municipal varieties. Present delineation of LSGs' rights and responsibilities (in both administrative and financial terms) in BiH allows a wide discretionary margin to the Entity and Cantonal governments. Municipal autonomy is still not high and their functions are not always well defined.

There are different LSG regulations in BiH that vary by Entities and Cantons. Municipal affairs are further regulated by municipal Statutes adopted by relevant elected municipal Councils. Upper level regulations define a number of councilors depending on the population size of municipalities (Bosnian municipalities differ widely in size¹⁴). Municipalities with more than 30,000 can establish city status¹⁵ and can amalgamate and coordinate policies among relevant urban municipalities within their jurisdiction. Municipalities in both Entities have authority to define their own structure depending on their size, needs and budget potential.

The organization of municipal authority in RS is regulated by the Assembly. The organs of RS Municipalities are the Mayor, the Assembly and the Administration. Legislative authority rests at the Entity level and the municipal Assembly can mainly regulate the implementation of existing legal provisions. Executive authority in RS is at the hands of with the Mayor that is responsible for implementing Assembly decisions and heading the Municipal Administration with its departments.

The jurisdiction of LSG in FBiH is prescribed by the FBiH Law on LSG Principles and corresponding laws of their respective Canton. Municipal bodies are the Mayor, the Council and the Administration. Legislative power in the FBiH is concentrated at the Cantonal level and Cantons. The Mayor office is the chief executive authority at the local level. The Mayor also heads the Municipal Administration and appoints its heads of units with the approval of the State Service Agency. The problem of wide discretion of Cantons in regulating the functioning of LSG is most evident where ethnic majorities at the municipal level are minorities at the Cantonal level.¹⁶

The ethnic division of the country has adverse consequences for the process of democratization at the local level. The existing political system and electoral law based on the DPA power-sharing formula¹⁷ continue to encourage ethnic division within the political sphere at all levels, including the municipal one. Domination of nationalist rhetoric in pre-

¹⁴ The smallest is Istocnij Stary Grad with 63 people and the largest is Banja Luka with more than 200,000 residents

¹⁵ The cities include: Sarajevo, Mostar, Tuzla in FBiH, and Banja Luka and Srpsko Sarajevo in RS.

¹⁶ E.g. the majority Serb Municipalities in Drvar and Grahovo in the Croat Western Bosnia Canton

¹⁷ At the national level the system puts ethnically based limitations on representation and suffrage. Citizens who do not identify themselves as Bosniak, Croat or Serbare barred from running the Presidency (with RS voters being able to vote exclusively for the Serb member of the BiH presidency and FBiH voters for either Bosniak or Croat candidate). The same restrictions apply to the BiH House of People (the upper Chamber of the national Assembly).

election campaigns and local politics hinder objective and meritocratic elections, democratic accountability and effective representation. In such situation smaller parties and independent candidates without political affiliation remain marginalised.

Since local politics are also ethnically based, municipalities become governing bases of the predominant ethnic group. Elected local officials remain under strong influence of their respective parties leaders and their ability to get funding depends on their loyalty to upper level governments.

Direct election of Mayors from 2004 was an important step for reducing the democratic deficit at the local level, although the municipal Assemblies/ Councils' authorities are sometimes used to undermine the Mayoral position, especially where the Mayors are not from the party that is locally in power. However, often directly elected Mayors still remain more accountable to their parties than to the electorate.

The power holders at the Entity level in RS and at the Cantonal level in FBiH that function largely along ethnic lines tend to use the decentralization process as a tool for reinforcing country's division. The national political parties articulate different aspirations with regards to decentralization in BiH: Bosniak parties support the idea of a strong state over territorialized self-government; the Serb parties largely seek Serb self-rule for RS with the maximum degree of autonomy from the multi-national state; the Croat politicians criticize the asymmetry of the current system of decentralization demanding establishment of a Croat Entity mirroring the RS.¹⁸

LSG dependence on ethnic and party affiliations undermines the idea of effective local administration and does not contribute to building trust between LSGs and citizens. Parties are not motivated to evolve to an all-inclusive platform as they win elections by merely defending the interests of their ethnic groups. Elected local Assembly/ Council members often cease communication with the citizens after the elections and, once in office, base their decision-making on party affiliation.

In many rural and remote municipalities local power holders have not been challenged since the war changed. There municipal control is in the hands of power-groups centered around private economic interests and formed along ethnic lines.

Average citizens are puzzled by the complexity of LSG political set up and are not encouraged to evaluate LSGs performance.

Power division between the executive and legislature is clear but their effective exercise is a subject of local political realities and capacities of Assemblies/Councils. Relations between the executive and legislature are highly politicised. The Assemblies/Council can block an elected Mayor if s/he is not from the same party as the majority of Council members or\and if s/he is not loyal to the ruling (majority) party. Harmonisation of relations between Assemblies\ Councils and Mayors is one of the issues that deserves special attention according to interviewed LSG experts.

In many cases the Assemblies\ Councils are highly politicized and have poor capacities to implement their check-and-balance function. In the situation where councillors are missing basic governance knowledge and skills there is much room for political manipulations. Some projects target councillors with their education initiatives but there is no continuous system of councillors introduction into their roles and/or capacity building from one to another election cycle.

Protection of rights of LGs in the country is poorly guaranteed. Although Bosnian municipalities and cantons are granted a right to appeal to the constitutional court and to challenge, respectively, cantonal or Entity level legislation, this provision is related exclusively to cases of anti-constitutional nature. Currently, LSG in the country do not enjoy

¹⁸ F.Biber "Post-War Bosnia: Ethnicity, Inequality and Public Sector Governance ". UNRISD, 2005, p.62

equal rights, which runs contra the principles of the European Charter of LSG. Cases of LGs rights discrimination by upper level governments due to political reasons are widely known and remain unaddressed.¹⁹ Besides, claiming rights on the background of existing uncoordinated legal and regulatory provisions is someone problematic, although precedents exist.²⁰

Inclusion remains a concern in the context of exclusive political system. In the situation when politics, institutions, and decision-making are divided along ethnic lines concerns about minority rights, gender equality and citizen participation in decision making have secondary importance. Ethnic minorities are not well represented in LSG as much more attention paid to respecting principle of equal proportionality in representation of constituent people in governing structures at the higher levels than at the local one²¹, and the ethnic composition of municipal administrations is meant to correspond to the 1991 pre-war census. Similarly, a very small percentage of women are municipal Council members.

Equal opportunities for being elected into municipal Council is a myth as traditionally underprivileged groups lack access to resources for being nominated and elected. Due to deeply politicised and ethnicity based current election culture and system access to political system for people not associated with dominating political parties is almost non-existent. As a result a negligible number of non-party independent candidates are being elected.

Participatory approach is promoted by law and introduced widely through various international projects but its application, sustainability and level of institutionalisation at local level vary. Participation is proclaimed as a right of citizens in BiH. Forms of direct public participation in municipal affairs and their impact on decision making range from participation in referendum, citizen initiatives and MZ activities to public hearings, debates and consultations, participatory committees and councils, citizen meetings, etc.²² Public involvements may take a loose form but can as well be institutionalised through local level regulations. Extent to which participation learned through international projects survives beyond these projects and penetrates into day-to-day local governance process is not being well assessed.

International projects tend to concentrate on securing institutional arrangements for citizen participation and deliberative democracy which (as recent research of the situation in BiH argues) might be not sustainable in the context of highly non-participatory political culture and rather exclusive way of civil society organisation.²³

Despite intensive international support to civil society organisations their role in democratisations and peace building processes in BiH remains underdeveloped. Bosnian society is generally characterised by low level of activist in the associational sector. Researchers agree about a limited role of Bosnian CSO sector in influencing democratisation process and its underutilised potential for becoming force for progressive change. The current NGO sector, which is a result of the last twenty years of international

¹⁹ Recent examples include the introduction of ecological tax on electricity producers in FBiH that is favouring municipalities with Mayors from the ruling FBiH parties and discriminate others (like municipalities of Tuzla and Kakanj where Mayors come from Social Democratic Party).

²⁰ E.g. the ruling of the FBiH Constitutional Court related to the failure of Sarajevo Canton to transfer certain duties and the related finances to its municipalities in line with the Law on Principles of LSG and to define affairs, competencies, financing and territorial organization of the city of Sarajevo in line with the FBiH Constitution. The ruling effected several Cantonal laws regulating the use of public areas, housing, education, communal services, urban and special planning, and financing.

²¹ *Nations in Transition*, 2011, p.138

²² For details see MDP Helicopter Review, MDP: Doboje, 2010 and S.Misic "Citizen Participation in BiH: Between Tradition and Transition", 2010

²³ For details see results of comparative research led by Prof. J. Stein on Deliberative Democracy in Bosnia, Columbia and Switzerland, research lead by P.Stubbs on Social integration and Social Inclusion in Western Balkans and multiple studies on the role of civil society organizations in democratization in BiH.

support, is largely donor's agenda driven, fragmented, dependant on external funding (international and governmental), and detached from grass-roots.

Bosnian NGOs are often not membership based, have elitist structures run by narrow group of professionals, dependant in their progress more on connections rather than engagement or interest which limits their abilities to generate alternative spaces for political and social participation.²⁴ In their projects and short-term results orientation the CSOs miss the aspects of mission and longer-term structural changes from their radar.

In the situation of decreasing international support the spirit of competitiveness prevails over a need for mutual cooperation, dialogue and alliances building for social changes. Competition seem to effect more the smaller and rurally based organisations as the larger ones are more able to meet the efficiency and capacity conditions of grant givers. As a result many NGOs are perceived as alien by local population. Some researchers question whether the civil society part of the Bosnian democratisation project can be achieved through the NGO channel.²⁵

Some studies go as far as claiming that by romanticising civil society and selectively reinforcing existing power structures international organisations failed to give a stake in the peace that is being created in the country and suggest to take the diversity of Bosnian local voices seriously in order to promote hybrid and sustainable peace.²⁶ This suggestion is supported by the results of earlier research of CSOs' role in peace building in BiH,²⁷ which concluded that low-key grass-roots and true interest-based organisations in BiH have a greater potential for reestablishing trust, cooperation and solidarity as the basis for collective action than professional urban NGOs.²⁸

Gradually, there is emerging evidence on the role of organisations and civic groups active in the area of transitional justice on democratization of Bosnian society.²⁹

A number of large CSOs try to play a watchdog role but their ability to do so also depends entirely on international support in the form of project funding. Although observers state that general public remains largely removed from active political life in BiH, voter turnout in 2010 general elections was rather high (56%) and some civil society organisations (especially in FBiH) became active in their efforts to refocus the pre-election debate from ethnic rhetoric to socioeconomic issues and government performance.³⁰ Yet, this function of CSOs is still underdeveloped and, as the experience of CCI shows, success in this area depends to a large extent on grass-roots presence.

Media independence and de-politization is a pending issue, especially at the local level. In legal terms media in BiH is free but it is highly vulnerable to political influence and its editorial policies are dependent on ownership. Whistle-blowing and investigative functions seem to be fulfilled only by some media at national level.

²⁴ See E. Jonsson "Democratisation through Civil Society? A Qualitative Study of Accountability Structures Within NGOs in BiH", Thesis paper in Development Studies, Lund University, 2011

²⁵ Ibid

²⁶ S. Kappler and O. Richmond. Peace building and culture in BiH: Resistance or Emancipation? Center for Peace and Conflict Studies: University of St. Andrews, UK, 2011

²⁷ See M. Fischer "Peace building and Civil Society in BiH: Ten Years after Dayton", Munster, 2005

²⁸ See B. Sterland "Civil society Capacity Building in Post-conflict Societies: The Experience of BiH and Kosovo", INTRAC Praxis Paper N 9, June 2006, or P. Stubbs "Social Work and Civil Society in Bosnia-Herzegovina: Globalisation, Neo-feudalism and the State", International Perspectives on Social Work, 1999

²⁹ L. Nettelheld "Courting democracy in BiH: the Hague Tribunal's impact in post-war state", Cambridge University Press, 2010

³⁰ Especially such organizations as CCI, Dosta, Alumni Center for Interdisciplinary Postgraduate Studies and Transparency International in the framework of their "get out the voter" campaign that in FBiH aligned with the SDP's campaign and may have contributed to high voter turnout (*Nations in Transition*, 2011, p.134)

2.2.2 LSG Organisation

Inter-governmental relations remain complex and LSG accountability is weak, which leaves space for political manipulations. Complexity of inter-governmental relations is especially obvious in FBiH where an interim level of government exists. Intergovernmental coordination and communication seem to be more advanced in RS where municipalities have greater scope of own competencies and communication lines are clearer (although more centralised).

LSG general accountability is shadowed by legislative gaps (also related to LSG competencies) and resources deficit for addressing local problems, and underdeveloped quality and performance standards against which LSG can be held accountable. Although the elected of Mayors as the key precondition for horizontal accountability is in place since 2004, Mayors accountability can be hurdled by politicised municipal Councils (especially in municipalities where Mayors are not form the same party as majority Council members).

The role of MZ village councils in LSG system is not precisely defined. The MZ represent a traditional institute of communities' self-organization and self-management. They are mainly formed based on election results in a given constituency and are important mechanism of political grass-roots mobilization.³¹

MZs are maintained as obligatory forms of community organizations in FBiH only. Their competencies are regulated by relevant municipal Statutes. Financial arrangements for covering MZ operational costs are improvised and not secured: in some cases MZs are receiving constant or ad-hoc grants from municipal budgets for covering their operational costs (which is slightly problematic from the legal point of view as MZs are not officially classified as unconditional public budget beneficiaries), in others their executive secretary is included into a municipal payroll (which makes them perceived as municipal government extension arm at the local level, accountable to municipalities), in some cases MZs are left to themselves. There are also cases of MZs owning assets (e.g. land, buildings, water distribution systems) legal status of which is often obscure.

LSG associational capacities are gradually growing. Most international organisations support inter-municipal exchange and networking. Great hopes are levied on the ATMs established in both Entities with regards to representation of municipalities interests vis-à-vis higher levels of governments and advocating for more conducive DLG policies and legal frameworks, as well as provided services to municipalities that are in demand.

Organisational capacities of both organisations have improved as a result of intensive support provided by VNG/SIDA and cooperation with other international organisations but their sustainability without external donor support is not yet secured. The Associations face several challenges related to a need to balance between: a) effectively representing and serving their members and implementing projects for donors (ideally two can be merged in case of donor demand driven support); b) delivering in advocacy and policy making domain and distinguishing between different (sometime conflicting) needs of different type of municipalities.

Yet, the Associations function in the political system, where national political parties dominate and not much room is left for LSGs to substantially contribute to designing governing institutions and processes that meet local needs. The very fact of existence of two Entity-based Associations and the dominance in their governing structures of large and powerful municipalities may seriously hinder abilities of the Associations to ensure neutral ground and to stand for the needs of smaller and less powerful municipalities that need the support of Associations most (expectations levied on them seem to be much higher among smaller and rural municipalities).

³¹ Exception is the District of Brcko where MZs have a status of NGOs

Multiple channels for communication and exchange between municipalities are emerging but they have not yet led to effective partnership for development. Inter-municipal exchange and learning with a different level of success has been facilitated by most LG support projects. This exchange is viewed by local government representatives (especially from peripheral municipalities along the inter-Entity boarder) as beneficial but their ability to translate it into longer-standing partnership are constrained by discouraging Entity level politics that are stronger pronounced by the RS government.

Transparency is more developed along executive-citizens than Council-citizens line. Public relations and communication mechanisms (introducing PR as permanent responsibility of relevant municipal staff; designating employees for managing specifically relations with public and NGOs; the use of local media; public information boards; opening hours for public; publication of municipal leaflets and bulletins, etc.) are practiced widely by municipalities across the BiH. Yet, communication between elected officials and citizens is often missing and is dependant on election cycles.

Effectiveness and efficiency in LSG internal organisation (including systematisation of work, distribution of functions between departments, communication and coordination, human resource management (HRM) systems, level of modernization) often depend on capacities of municipal leadership and extend of exposure of municipalities to international cooperation. The size of municipalities predetermines their organizational needs. Large urban municipalities seem to be better organised and stuffed. To a large extent the effectiveness of municipal organization depends on managerial and financial abilities of municipalities. Often new elements are mixed with the traditional/ pre-war organisational structures. International assistance has been provided in the area of systematisation of the work of municipal departments and employees, improvement of documentation and other administrative processes. There are multiple good examples available that have potential for replication generated through MDP, ILDP and OSCE interventions among others.

Pressure for increasing effectiveness and efficiency of LGs is being created by different fora, including BEACON scheme designed to raise standards in municipal governance by recognising excellence and supporting the dissemination of best practice and supported by OSCE and OSF³² and EDAPEDIA forum of Mayors and Councils initiated by Economic Development Agency in Banja Luka in order to regularly discuss and exchange the most pending DLG matters.

Human resource management systems are introduced by municipalities in a decentralised way, and lack consistency and unification of approaches. Municipal HRM systems in FBiH are heavily affected by public administration regulations (since in FBiH public servants are also employed at the municipal level).

In both Entities municipal employees' and departments' performance setting and appraisal practices are dependent on the advancement of HRM systems in municipalities but generally suffer from underdeveloped performance tracking system for municipalities as whole. Wages of municipal staff are not attractive; work in municipalities is attractive either due to temporary security of job or, in case of large municipalities, by learning and personal professional development opportunities.

With the support of SIDA/UNDP Municipal Training System project Local Self-Government Training Strategies were developed for each Entity following a detailed training needs assessment of LSGs. The training base established by the project was transferred very recently to the ATMs but to which extent the Associations manage to secure sustainability of the training system remains to be seen.

³² For details see *BiH BEACON Scheme, OSCE: Sarajevo, 2005*

Code of ethics/conduct for LG employees is missing. There were attempts to introduce the Code of Conduct for Municipal elected officials by OSCE in the past but there is no information on existing Code of Ethics for municipal employed officials in BiH.

There is no unified regulation and rules related to municipal employees in the country. In the FBiH municipal employees are a mixture of public servants and public employees (regulated respectively by the Law on Public Service and the Law on Employees in State Service Bodies). In RS the municipal employees are not public servants.

Equal opportunities for public and municipal employees are among proclaimed principles although there is no evidence on to which extent this principle is respected. Recruitment of public servants and municipal employees is supposed to be merit based but there are many cases where party affiliation is a precondition for becoming a municipal executive team staff member. In a highly politicised environment women find it difficult to get high executive positions (there is only four cases of women Mayor known in BiH).

In modernisation smaller and rural municipalities lag behind. Level of modernisation and innovation (IT, e-governance, modern municipal management practice, financial management, administrative services provision, etc.) is considerably higher among larger municipalities and municipalities with a history of cooperation with international community. There is a special E-Governance Strategy adopted in RS that supports introduction of new information technology.

2.2.3 Planning and Plans Implementation

Mid-term and strategic planning and creating conditions for local economic development becomes an obligation of LSGs and a standard practice but its effectiveness is challenged by the following shortcomings:

- Cities and municipalities are made fully responsible for local level development planning, implementation and monitoring and evaluation (M&E), although their accountability is shadowed by unclear competencies in some domain, limited resources at hands for funding development plans and investing into services and infrastructure, deficient know-how (especially related to M&E), as much as the interference of politics.
- Linkages between planning and budgeting process are not yet well established, although some municipalities are already using the mid-term (3 years) budgetary planning framework.
- Relations between strategic plans and other type of plans (spatial, urban, regulatory) are underdeveloped. Coherence between these plans is a necessary precondition for integrated development of municipal territories.
- The quality of planning inputs or data related to population and territory size, public property/ assets, land is often poor. Data (including basic data on population³³) is a subject of political manipulations. Fragmentation of municipalities resulted into fragmentation of data and in some cases disputes regarding assets ownership.
- Performance monitoring and evaluation of plans implementation is a subject to the availability of integrated comprehensive data management system at municipal level, i.e. data allowing to track development progress. Currently, most indicators used in the plans are inputs rather than outcomes based, which is not very conducive for introduction of results/ performance based planning and budgeting.

³³ There was no censuses conducted after the war and the only official data available is from the pre-war census of 1991

- Economy of scale type of efficiency, especially in the area of local economic development (LED) and planning, is often missing.³⁴
- Lack of established coordination and coherence between local level plans and upper level plans is influencing planning efficiency, also in terms of the use and control over resource allocated to upper level plans and programs.

Transparency is ensured in the planning process supported by the international community but no evidence on transparency in planning in general. Most municipal development plans have been elaborated with the support of internationally funded projects that stressed involvement of local stakeholders and general public. Yet, there is no evidence showing to which extent the local authorities can draw on this experience in their own planning processes.

Level of participation of relevant stakeholders in planning, implementation and M&E depends on capacities of local authorities to engage citizens, as well as organisational capacities of local civil society. Capacities to engage citizens include mainly ability to create “spaces and places”³⁵ for citizen engagement (loose consultations, institutionalised planning committees, public hearings, round table discussions and similar being practices), and the availability of resources on which municipalities can decide at their own discretion. Level of organisation of local civil society is another important factor of engagement that varies across the country and depends on the ability of civil society organisations to draw on local resources, including public budget.³⁶

Municipal plans enjoy full legitimacy and may serve effective means for ensuring rule of law locally. Municipal plans of all kinds are fully legitimate as they are endorsed by municipal Councils. A number of interviewed municipal representatives state that having legitimate plans (especially regulatory and special) allows minimising space for arbitrary and politics-driven decision making related to providing access to land, business and investment opportunities.

The principle of equity is introduced into planning process but its implementation varies. Municipal strategic planning methodology mainstreams the issues of equity, mainly by encouraging participation of vulnerable and marginalised groups (these are traditionally unemployed youth, women, children and families with many children, people with disabilities, internally displaced people). Implementation of this principle is dependant on different factors, including grass roots representation of local SCOs. Exclusion seem to be greater in rural and remote areas, where SCOs are also underdeveloped. Some municipalities have elaborated and adopted special strategies (like Youth Strategy, Social Inclusion Strategy, Child Protection Strategy, etc.)

2.2.4 Service Delivery

LSGs are responsible for most basic services provision but their accountability is blurred by a number of factors. Sometimes service related responsibilities are not clear and financing does not correspond to responsibilities (both transfers and own revenues allocations), municipal capacity is low and the relations between municipalities and upper

³⁴ For instance, the strategic plan of small municipality of Dobo Jug stakes on development of tourism and agriculture, but there are limits to what the municipal authorities can do in this domain on their own (mainly small scale projects), instead they are concentrating on raising revenues by developing highway trade.

³⁵ Gaventa, J. (2006). *Finding the Spaces for Change: A Power Analysis in Power, Exploring Power for Change.* IDS Bulletin 37.6, Brighton: IDS

³⁶ A number of municipalities have solid experience of supporting civil society organisations through transparent grant schemes and/or provision of premises. For instance, Maglai municipality issues non-conditional grants for supporting operational costs (one staff member) of key local SCOs – the youth NGO, the union of employers, the association of entrepreneurs and the ecological NGO.

level governments (especially in FBiH) are overly complex. Besides, harmonisation between sector laws/ regulations and LG laws is incomplete.

There are considerable variations in municipal competencies between the entities and the Cantons within FBiH. Exclusive competencies of municipalities in both Entities mainly include: communal services (water and sewage, roads and public transportation, waste removal and heating) and provision of administrative services (birth and death certificates, construction permits, business licensing, communal inspections, housing, culture, sport and leisure, social welfare).³⁷ LSGs responsibilities in social domain (health and education, social welfare) differ substantively by entities.

In FBiH municipalities have a right to establish and manage their own public utilities, while in RS until very recently public utilities were accountable to the Entity level government.

In order to avoid social implications, LSGs use their expenditure for compensating funding deficit for the services provided by higher level governments (e.g. social welfare). Besides, implementation of delegated competencies (e.g. security) is hampered by lack of delegated funding (unfunded mandates).

Some new services (legal aid provision) levied on LSGs are not yet well established throughout the country.

There is a serious gap in defining LSG's property and competencies in natural resources management (NRM) competencies distribution in both Entities.

Accountability for service provision is often blurred due to overlaps and interdependencies in the accountability chain between providers, executive authorities, municipal councils and upper level governments. Municipal councils are responsible for setting tariff structures but they are reluctant to adopt unpopular decision on raising tariffs. This, in turn, has implications for cost-recovery and investment abilities of public enterprises, their assets values and quality of services. In this situation municipal authorities are obliged to provide for capital investments of unsustainable public enterprises from the budget.

Effectiveness in service delivery is generally is growing but varies considerable across municipalities and sectors. Service delivery outcomes are very uneven across municipalities and sectors. There seem to be no strong correlation established between municipal performance, on one side, and size, age or income of municipalities, on the other side: both poor and well performing municipalities can be found across Entities, Cantons, size, age, population density and income groups.³⁸ Yet, the following aspects are hold accountable for service delivery performance:

- Municipalities that are capable of strategic thinking and setting priorities perform better. Ability to set priorities and develop projects coupled with management efficiency allows attracting extra funds for capital investments (both loans and grants). This has been demonstrated by experience of different programs, including those funded by SDC (GOW-WADE, MDP and ILDP).
- Deficit of service delivery performance targets, indicators and standards is among underlying reasons for low effectiveness (performance-based approach is not yet institutionalised through multi-year planning and budgeting, service outcomes related indicators and standards).
- Responsiveness of service providers (limited channels for complain, redress mechanisms) is very low. Lack of users' feedback influences service delivery efficiency. Common assessment framework (CAF)³⁹ introduced through the OSCE

³⁷ Local Governance and Service Delivery in *BiH: From Stability to Performance*, WB: Sarajevo, 2009, p.26

³⁸ The lessons are formulated in the study "*Local Governance and Service Delivery in BiH: From Stability to Performance*", WB: Sarajevo, 2009.

³⁹ CAF is a quality standard developed by the European Institute of Public Administration as a self-assessment tool for performance measurement of LSG's.

and MDP interventions has established certain service related measurements for judging LSG performance. Besides, attempts are being undertaken by local NGOs (like CCI) to monitor systematically and influence service delivery performance of municipalities based on user satisfaction measuring.

- Peer-to-peer exchange and pressure is among driving forces for improving services, which has been proved by Aquasan network of water and sanitation professionals established under GOW-WADE.

Application of efficient modes of service provision (inter-municipal cooperation) can translate into better service outcomes and client satisfaction but they are still underdeveloped. Positive experience is demonstrated by RAD utility company serving not only the city of Sarajevo but also the neighbouring municipalities of Vogosa and Ilidza.⁴⁰ There are several other examples of joint service provisions by municipalities in the country but the practice is not wide spread.

There is a high demand for increasing efficiency through inter-municipal cooperation (IMC) and public-private partnerships (PPP). It is obvious that small municipalities and utility companies bear high unit costs and cannot realise economies of scale. The demand for inter-municipal cooperation and new modes of efficient service provision is increasing among the municipalities in RS, following the recent transfer of public utilities from entity to local level.

However, the introduction of new modes of service provision is hampered by the following factors:

- IMC is politically sensitive (like regionalisation it is viewed as an attempt to cut across Entity borders and, thus, to disempower the Entities). There are several examples of IMC within the same Entity/ Cantons. It should be noted that across Entities and Cantons, apart from political reluctance to cooperate, the IMC is hindered by unsynchronised sector policies and regulations.
- For PPP adequate legal and regulatory environment is missing (the PPP model has been tried out so far by some large municipalities but mainly for attracting capital investments and with different degree of success).
- Both IMC and PPP lack successful precedents, examples of regulatory/contractual packages, awareness of regional experience, promotion of existing good practices inside BiH and regionally.

Administrative efficiency of LSG has been improving as a result of improved regulations and substantive international support. Improvements are reported by most interviewed actors in such areas as administration simplification, registry, land administration and cadastre, IT, e-governance, registers of administrative procedures (to a large extent thanks to GAP SIDA/USAID project, WB, GIZ and other international investments). All these improvements also allow better standard of legal protection for BiH citizens. Nevertheless, success in their introduction varies and is less obvious in remote rural municipalities.

Transparency and equality in service delivery is still problematic due to general lack of transparency in setting service delivery policies, tariffs and service delivery outcomes. This lack of transparency is also related to the deficit of performance indicators and standards, fear of political implications of introducing efficiency principles in service provision, and poor data management systems.

Disaggregated service delivery monitoring (by areas and social groups) is problematic in the situation of lacking service delivery performance tracking system. Information on social and geographic accessibility of services inside municipalities is often not available.

⁴⁰ Remarkably, both have different parties in power than that of Sarajevo city.

Service users' participation in service policies related decision making and services co-production is almost non-existent. Demand for users involvement in service provision is emerging in rural and remote areas where reaching communities is associated with high unit costs and where local level small scale solutions can be devised (e.g. in water and sanitation services).

Rights based approach in service provision is sometimes problematic. The mode of organisation of some services is limiting implementation of citizen rights. Although formal anti-discrimination laws are introduced under the pressure of EU their implementation in practice remains a challenge. Produced upper level social inclusion strategies (related to Roma, old people, children, disabled, etc.) often contain overlapping or unclear goals, poor monitoring measures and no clear budget funding obligations.⁴¹

Social policy making is more interest- than needs-based which is to a large extent influenced by the post-war ethnic nationalism that is responsible for “a legacy of discriminatory definitions of citizenship, legal discrimination in terms of entitlements to social services and benefits, and de facto discrimination by front-line professionals and bureaucrats”.⁴²

Economic and political concerns often dominate the LSG agenda living little space for social policy issues. Besides, where the social fabric has been eroded as a result of forced migration, competition for scarce resources between those who remained during the war, returnees and displaced from elsewhere exist. Moreover, social policy is often a subject for capture by powerful and articulated political groups, like war veterans or to the extent pensioners.

Overcoming regional/municipal inequalities in service provision is problematic without an effective redistribution system and introduction of economy of scale. Along with the economy of scale (discussed above), transparent and fair resources redistribution, including revenue equalisation, is a missing precondition for more equitable service coverage.

Greater social inclusion can be achieved through partnership between municipalities and CSOs. Framework Social Inclusion Strategies are endorsed by both Entities and they are further localised by some municipalities through the adoption of Social Inclusion Strategies at the municipal level. The impact of these strategies in terms of improved equality is to be monitored.

With the support of Social Inclusion Fund (SIF) co-funded by a several donors with SDC and OSI being the major ones, the practise of involving local NGOs into social service provision to vulnerable groups is well established in many Bosnian municipalities. As a result, civil society role in social service provision at the local level has grown considerably, political influence on NGOs funds allocations are being reduced and organizational standards of local NGOs are being advanced.⁴³ Yet, for effective scaling up the practice of NGO-public cooperation still needs consolidation.

2.2.5 Public Resource Management

Public finance management reform that widens fiscal space and resources base of LSGs is in progress but is still incomplete and implementation at the local level lags. Recent reforms resulted into establishing fundamental public macro-finance management system, introduced elements of strategic allocation of resources and tools for improving operational efficiency. In general, since 2006 municipalities receive more stable sources of funding following the introduction of VAT (the VAT transfers from the Indirect Taxation

⁴¹ Stubbs (2009), p. 3-5

⁴² Ibid, p. 3

⁴³ A.A. Muhić „Halfway there: Government Allocations for the Non-governmental Sector in Bosnia and Herzegovina in 2010“, IBHI, Sarajevo, 2011

Authority (ITA) replaced derivation-based sales tax and reduce the disparities of per capita revenue across jurisdictions).

However, at the local level PFM performance varies widely across municipalities that have diverse fiscal positions in terms of transfers from higher level governments, own source revenues, borrowings levels and capacities and expenditure structures. The major PFM effectiveness challenges related to the following:

- Shares of taxes received by municipalities in BiH differ substantively. They are larger in RS than in FBiH where the interim government tier exists: currently, municipalities in RS account for 22% of public budget and in FBiH for 10%. In FBiH, there are examples of Cantons adopting fiscal policies in favour of municipalities (e.g. Tuzla) and those that have policies with a rather damaging effect on municipal budgets (e.g. Doboje⁴⁴).
- Mid-term budgetary planning is a very useful planning framework (especially from the perspective of better planning revenues and ability to finance and plan deficit) but its application in practice is weak (also due to weak predictability of upper level transfers and grants) which reduced the practical value of mid-term planning;
- Basic preconditions are missing for the implementations of policies related to budgetary control and performance based budgeting (unified treasury system, info system for monitoring spending outcomes, monitoring real public investments including capital investments of multiple donors⁴⁵);
- Access to borrowings is provided and depends on municipal managerial capacities (in terms of planning and prioritising investment projects, planning deficit on mid-term, etc.), but it is constrained in FBiH by low debt servicing limitations (10% of debt servicing on previous year revenues and transfers in FBiH compared to 18% in RS). This limitation is especially challenging for large municipalities with potential for investment attraction and rapid development (like Tuzla) that have already exhausted their borrowing potential.

In general PFM efficiency at the local level has improved but success is still patchy.

There is space for improving efficiency of municipalities (especially in peripheral and rural) in such areas as accounting records and practices, recording and reporting quality and standards. PFM quality is often influenced by lack of trained staff, deficiency of guidelines and local level regulations.

LSG can increase their fiscal space by improving their revenue collection and expenditure efficiency. Fiscal efficiency can be achieved through better revenue management, in particular there are multiple examples of municipalities with improved assets management (e.g. MDP and ILDP targeted municipalities), increased service management and cost-recovery (e.g. GOW-WADE targeted municipalities and their performance in WES sector), favourable business environment (GAP targeted municipalities). Fiscal collection abilities are often constrained by poor assets inventory, poorly regulated relations between LSG and public utilities and for-profit companies, current revenue forecasting practices⁴⁶. Municipal expenditure efficiency is seriously constrained by expenditure deviations, in particular a need to fill in upper level service funding gaps and to patch budgetary holes of public enterprises).

LSG budgetary and fiscal competencies are established but LSG's budgetary accountability is still constrained by:

⁴⁴ E.g. Reduction of real estate tax and change of percentage of profit tax

⁴⁵ Capital investments of donors in the form of grants are mainly streamed through designated bank accounts and are not reflected in municipal budgets (later assets are transferred to municipal balance sheets).

⁴⁶ Revenue forecasting is based on the last year revenue base (often 9 month since forecasting is done in last quarter of current year) rather than revenue potential of municipalities.

- Current fiscal policies (especially in FBiH) not much favouring growth of local revenue base;
- Expenditure tracking being prevented by a lack of consistent budget classification, compatible accounting, recording and reporting system, and auditing practices;
- Municipal budgets not yet included into a unified treasury system;
- Political realities, whereby Councils by some political reasons can override/veto efficiency related budgetary decisions of executive;
- Still weak capacities of local councils to comprehend and oversight budgets (especially poorly managed public budgets become an easy target for political manipulations);
- Not fully established property and assets management systems.

Inability of municipalities to exercise control over the use of natural resources on their territory seriously endangers their autonomy. Legal and regulatory environment related to municipal competencies in managing natural resources on their territories is underdeveloped. Moreover, most municipalities do not control or profit much from the concession issued for the use of natural resources on their territories, although experiences in FBiH vary by Cantons (e.g. in Tuzla Canton the municipalities receive as much as 90% of revenues generated from concessionaries issued on their territory).

Basic policies and regulations guaranteeing access to public budgets are in place but transparency is limited by some shortcomings. These shortcomings include: poor predictability of local government income and revenues; underdeveloped know-how and effective medium for communicating budgets to public (apart from publishing full budgets on regular basis in an official gazette or website, or making them available upon request – a widely spread practice)⁴⁷; missing practices of public consultations on revenue policies (beyond council).

Participation in budgeting process is increasing but is hampered by general deficit of resources and lack of citizens' confidence in budget making process; poor awareness of LSG processes and channels of participation, as much as general apathy; LG's and media insufficient budget communication skills.

Public procurement is well regulated and regulation applied by most municipalities. All municipalities are obliged to follow public procurement rules stipulated in the state Law on Public Procurement. Tendering is required for purchasing of goods and services (including banking services). Tenders conducted and monitoring is implemented by procurement committees. In most municipalities (apart from the small ones that tend to negotiate directly with suppliers due to small contract amounts) the procedures are respected.⁴⁸

Practices of NGO and MZ involvement into budget implementation emerge. Transparent and locally regulated grant distribution to NGOs is being introduced to replace bias unconditional and politically motivated funding of certain type of NGOs (like war veterans, etc.). Budgetary hearing are sometimes organised by MZs, although the place of MZs in municipal budget is not defined.

Corruption is perceived as wide spread but there is no credible evidence available. Space for corruption and politicizing is greater in cases of poorly regulated and poorly performing municipalities/ sectors (although corruption at the local level seem to be less pervasive that at higher levels). Patronage hiring for local government posts remains common. Implementation of the Law of the Conflict of Interests depends to a large extent on the relative influence and power of suspected public officials. Laws requiring financial

⁴⁷ For detailed analysis see the M. Jusic. 2011. "Public access to local budgets: Making Local Government Budget Documents Easily Available to Citizens in Bosnia and Herzegovina". *Analitika: Sarajevo, 2011*

⁴⁸ *Local Governance and Service Delivery in BiH. WB: Sarajevo, 2010 2010, p. 73*

disclosure of public officials and election campaigns financing are still inadequate. The regulations related party donation limits are restrictive and disadvantageous for parties not represented in BiH legislative bodies.⁴⁹

Revenue equalisation among municipalities is not well regulated and a system of grants is a subject to non-transparent negotiations and decision making. In this context it is somewhat problematic to speak about securing effective redistribution of public resources, although the Single Account transfers is an important step to provide LSG with predictable and more equitable distributed resources.

Experiments with scrutinising inclusive nature of local budgets are underway. This includes child- and gender-responsive budgeting.⁵⁰ Ministries of Finance are recognised as crucial for setting into practice social integration and social inclusion programs. Yet, sustainability of promoted inclusive budgeting approaches in the context of vast and competing budgetary priorities and deficient PFM system is rather questionable. There seem to be more achieved so far in terms of raising awareness of assessing budgetary impacts on socially vulnerable groups, rather than in terms challenging budgetary negotiations and allocations process, or in terms of developing the capacity of budgetary users.⁵¹

3 Conclusions and Recommendations

3.1 Main Conclusions Relevant to SDC Involvement

The assessment team came to the following main conclusions on DLG situation in BiH that are relevant for planning further SDC support in this domain:

- There are legal and regulatory differences between Entity and Canton level and between cantons related to the functioning of LSGs in BiH that need to be taken into consideration.
- Improving LSG performance in public resource management and service delivery are the main challenges BiH faces (also in the context of EU integration). Despite differences in the LSG systems in FBiH and RS, approaches and demands to improving performance in both Entities are similar.
- Although there is room for improvement in the DLG related legal and regulatory environment (especially in the area of functional and fiscal decentralisation as main policy priorities agreed by main actors), basic framework preconditions for advancing DLG in BiH exist. There is also ample space for improving the LSG's potential to comply with current laws and regulations and to use the existing advantages of decentralisation for improving their performance.
- The existing democratic deficit at the local level is associated with the ethnically based political system in which ethnic identity and nationalistic rhetoric often dominate over socio-economic agendas. Furthermore, the deficit of professional municipal management oriented towards effectiveness and efficiency provides spaces for politicising local governance issues at the local level.
- Along with the complexity and ethnic politization of LSGs, citizens' ability to hold LSGs accountable is also hindered by a rather weak organisation of civil society that lacks examples of positive collective action and is mainly represented by organisations lacking good grass roots base and dependant on external funding. Another contributing factor is politization of local media.

⁴⁹ J. Jelusic "Bosnian Report" in *Nations in Transition*, Freedom House: Washington, 2011, p.140-141

⁵⁰ In some municipalities there are gender budgeting initiatives launched by GIZ, child-responsive budgeting initiatives supported by UNICEF and social inclusive budgeting supported by the IBHI NGO.

⁵¹ P. Stubbs "Building Capacity to Promote social Integration and Social Inclusion in the Western Balkans", Paper produced for Expert Group meeting at Accra, Ghana, November 2009

- The main driving forces, expertise pools and potential agents of change for DLG reform in BiH are the municipalities. However, they still need to be empowered (organised and resourced) to take a lead in influencing and shaping DLG agenda.
- The current level of LSG advancement (organisation, planning and implementation, service provision and public resource management) relies to a large extent on municipal capacities and specific services (achievements are more obvious in sectors where LSG competencies are clearly defined, i.e. mainly basic communal services).
- There is a layer of domestic NGOs and private sector organisations engaged in the area of local self-governance which need to be further supported and strengthened in their service providers role.
- For advancing DLG reform in BiH much is to be done in putting systems in place: good practices exist but they need to be scaled up and the LSG work needs to be systematised.
- SDC in BiH has accumulated valuable experience in improving local governance in line with existing policies and EU standards through boosting municipal performance in several domains (strategic planning and LSG management, as well as the WES sector).
- There is a large deficit of coordination among the main supporters of LG development in BiH.
- Greater demand for improving LSG performance and accountability of means a demand for better targeted international assistance (areas where tangible achievements can be produced in terms of service provision, revenues, capital investment attraction, etc.)

3.2 General recommendations for SDC support to DLG in BiH

Based on the analysis and conclusions the following recommendations can be made to SDC

Strategy

1. Future SDC support to the DLG sector should continue geared at improving good governance practice at the local level with the emphasis on increasing democratic and decentralised spaces, as well as de-politization of LSGs. A recommendable strategy is to invest into the improvement of the both the “demand” and “supply” side of good governance process by gradually refocusing local policy /decision making process and management from ethno-political considerations to performance, delivery and inclusion issues. Thus, the new Strategy should focus on 3Ds - Democratisation + Decentralisation + Delivery of services.
2. *On the supply side*, there is a need to support the improvement of LG performance in the framework of existing laws and regulations, professionalization and standardisation of LSGs, advancing approaches and tools for improving its effectiveness and efficiency and, thus, levelling cross-Entity differences.
3. *On the supply side*, SDC should aim at generating alternative spaces for political and social participation and collective action within the associational sector. A prerequisite will be to identify and widen “spaces and places” in targeted municipalities favourable for shifting from ethnic rhetoric to socioeconomic issues and LSG performance.
4. Secure sound linkages between local level support and policy/decision making process at the Cantonal, Entity and national level (especially in the area of functional and fiscal decentralisation) through credible analytical work, facilitation of policy

dialogue among the key stakeholders, standardisation of LSG practices and a choice of capable and neutral implementing partners.

Geographic areas

5. Target municipalities where the need for improved performance and good governance is greater than in others (in particular rural and smaller municipalities). Weaker rural municipalities (that can be also tagged as “politically difficult”) around stronger performing ones which can serve as pioneers and drivers for change and possibly in which SDC has been working in the past.
6. The situation in the targeted municipalities needs to be further assessed on individual basis and in a highly participatory manner (tools like the indicative matrix and the stakeholder analysis can be further applied at this level of assessment), in order to suggest well-tuned and demand driven assistance packages. This can be done in the process of the project planning or project inception phase.

Approach

7. It is recommended that SDC launches one flagship program in the area of DLG with several key components and several implementing partners, also in order to enable a cross-fertilisation and check-and-balance environment among implementing partners. The most obvious division of components might be in relation to a need to work on “supply” and “demand” side of good governance (see. above points 2 and 3).
8. Keep applying integrated and demand-driven approaches in supporting LSGs but select a concrete area of involvement/service provision which a) is in demand and has potential for replication, b) can have impact on generating/attracting additional resources (including IPA funds), c) has a potential to produce good governance spill-over on other sectors, and d) has a potential to promote social inclusion.
9. Maintain an integrated development focus but at the time ensure that SDC assistance has a practical entry point related to concrete service provision or sector. This will facilitate acceptance of targeted municipalities, cross-fertilisation and inter-municipal learning/cooperation, policy dialogue, and (the last but not the least) in case of targeting underprivileged and “politically difficult” municipalities would secure the benefits of investments for local population in case of a failure of the software component.
10. Strengthen the linkages between planning, on one side, and plans implementation and budgeting processes, on the other side, by specifically focusing on the quality of planning inputs, performance tracking, public resources management and revenue raising abilities of partner municipalities (build on existing approaches and tools).
11. Support innovative management/service delivery approaches in chosen domains of interventions (including IMC, PPP and CSOs involvement).
12. Generate demand among municipalities for better performance (producing local know-how, producing hard evidence of effectiveness and efficiency gains, exposure of best practices/ champions, exchange).
13. Promote EU standards in selected area of involvement.

Partners and stakeholders

14. Support municipalities in creating demand for change from below. To the extent possible ensure that experiences supported by SDC in the field feed to policy dialogue and policy making. For securing this vertical integration and up-streaming, partnership with multilateral organisations capable of facilitating policy dialogue in a neutral and professional way would be critical.

15. Support strategic partnership between LSGs, their Associations and expert organisations in the selected field in advocating for DLG reforms by empowering them with hard evidence on improving performance (in order for them to become well-informed for policy dialogue).
16. Carefully choose instruments and partners for the support of spaces of political and social participation; these instruments and partnership arrangements should allow wide grass roots outreach.
17. Maximise learning by support to peer-to-peer exchange (locally, regionally, Swiss know-how where relevant).
18. Synchronise and closely coordinate approaches with other donor, especially including SIDA, USAID and EU.

Leverage and visibility

19. Build on successful SDC experiences and approaches, areas of involvement where SDC enjoys credibility (strategic planning, LSG management and WES sector).
20. Increase the leverage of SDC assistance by ensuring synergies with other Swiss development partners, in particular SECO with its capital investment inputs. To the extent possible secure geographical synergies that would allow through combination of software and hardware inputs boosting performance of targeted municipalities.

Further proceedings

21. It is recommended that the SDC Country Office jointly with the assessment mission and following the discussion of this report, launches an internal reflection process (in the form of one- or two-days workshop), in order to define the new SDC strategy in the DLG domain in BiH. The result of this discussion will be a Concept Paper drafted by the mission team.

The *Scheme 1* below suggests the Logic for the future SDC Strategy for the support of the DLG sector in BiH based on the above recommendations.

Scheme 1 Proposed logic for DLG Strategy in BiH

